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Supreme Court, U.S.
FILED

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No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1996

PAUL A. BILZERIAN,
Petitioner,

v.

HSSM #7 LIMITED PARTNERSHIP,
Respondent.

Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit

SUPPLEMENTAL PETITION FOR A WRIT OF CERTIORARI

PAUL A. BILZERIAN, *Pro Se*
16229 Villarreal de Avila
Tampa, Florida 33613
(813) 264-1818

November 25, 1997

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Petitioner, Paul A. Bilzerian, respectfully files this Supplemental Petition for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

Since I filed my Petition for a Writ of Certiorari on May 16, 1997, this Court has granted certiorari in another case, Cohen v. Hilda De La Cruz, No. 96-1923, involving an identical issue raised in my Petition. On November 13, 1997, Cohen filed his initial brief with this Court, which addressed the issue of whether 11 U.S.C. § 523 (a) (2) (A) prohibits a debtor for discharging the non-compensatory punitive damages portion of a fraud judgment. That is precisely the first issue I raised in my Petition.

I respectfully suggest that this Court should also grant certiorari in this case and decide two extremely important related issues with respect to § 523 (a) (2) (A): (1) whether a creditor is required to prove that he sustained a loss; and (2) whether a creditor is required to prove that the debtor **actually obtained** money or property from the creditor.

In this case, the Eleventh Circuit excepted from discharge a judgment, in equity, for recission of a contract (but not for money damages), based on fraud in the inducement, which is inconsistent with Field v. Mans, 116 S.Ct. 437 (1995), which stated that § 523 (a) (2) (A) should be construed to incorporate the common law of torts in order to allow creditors to recover **losses** resulting from common-law torts.

Also in this case, it was undisputed that I never obtained any money or property from the creditor, but, instead, had the potential to receive a contingent, indirect benefit as a result of the creditor entering into the contract. Declaring a judgment nondischargeable under such circumstances is inconsistent with this Court's dicta in Grogan v. Garner, 498 U.S. 279, 282 n.2, 111 S.Ct. 654, 657 n.2 (1991), where the Court stated that "arguably, fraud judgments in cases in which the defendant **did not obtain money, property, or services,** from the plaintiffs **and** those judgments that include punitive damages awards are more appropriately governed by § 523 (a) (6)." (emphasis added).

This Court has already decided to address one aspect of the statutory limit of nondischargeability under § 523 (a) (2) (A). I respectfully suggest

that it is important to debtors, creditors and bankruptcy courts throughout the United States, for this court to decide the two related issues involving the statutory limit of nondischargeability under § 523 (a) (2) (A) that I have raised in my Petition.

CONCLUSION

For the reasons set forth above, the petition for writ of certiorari should be granted.

Respectfully submitted,

PAUL A. BILZERIAN, *Pro Se*
16229 Villarreal de Avila
Tampa, Florida 33613
(813) 264-1818
Petitioner

Dated: November 25, 1997